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10/653,523

09/02/2003

Paolo Tiramani

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EXAMINER

CHAPMAN, JEANETTE E

ART UNIT

PAPER NUMBER

3633

MAIL DATE

DELIVERY MODE

11/28/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/653,523

Applicant(s)

TIRAMANI, PAOLO

Examiner

Chapman E. Jeanette

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 4, 17-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Dattner (3720022). Dattner discloses a prefabricated house comprising:

1. two or more modules 11, each module having
2. a frame, 101-104, 105-108, 109-112
3. each module having one or more multi-frame openings; see figures 2
 - a. each multi-frame opening incorporating two studs 109-112 from said frame plurality of studs
 - b. a plurality of medial cross-memebers 101-104 and 105-108
4. the modules structured to be joined at one or more multi-framed openings; see figures 2
5. the multi frame openings are enclosed within a covering 27 over the frame
6. the multi frame openings are structured to be converted into openings; see the abstract
7. the multi frame openings include a pair of spaced apart studs; see

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figures 2; The Random House College discloses that a stud is "...any of a number of slender, upright members of wood, steel, etc. forming the frame of a wall or partition and covered with plasterwork."

8. a plurality of cross members extending between two studs

Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dattner in view of Derman (2070924). Dattner lacks the cross members removably coupled to the studs. Derman discloses a cuboid volume with cross members 35/27 and studs 22/19. The studs are removably coupled to the cross members. It would have been obvious to one of ordinary skill in the art to removably couple the studs to the cross members to allow for a greater degree in variation of size of the room modules as shown by Derman.

Claims 7-13, 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dattner in view of Prigmore et al (4779514).

Prigmore et al includes a prefabricated unit with foldable panels. One of the modules is a core having a fixed spaced portion 16/18 and a passive space portion 12/14. The fixed spaced portion having non-foldable walls and the passive space portion having foldable panels. See figure 7 of Prigmore et al. the foldable panels are movable from a first closed position to a second open position. The size of the fixed space in comparison to the passive space has been considered a matter of choice. One of ordinary skill in the art would have appreciated making the modules of any dimensions permitting the intended use, function and purpose of the prefabricated unit. It would have been obvious to one of ordinary skill in the art to modify Dattner to include foldable

panels and the fixed and passive spaces to permit transport of the prefabricated unit as shown by Prigmore et al.

Regarding claim 9: Dattner discloses the multi-frame opening are structured to be converted into an openings such as windows and doors. See column 3, lines 1-7.

Regarding claim 10: Dattener discloses modules joined at multi-frame openings with the modules disposed in more that one configuration relative to each other. See abstract.

Regarding claim 11: Dattner discloses the multi frame opening s enclosed within a covering 27 over the frame and the multi frame openings are structured to be converted into openings. See figure 14

Regarding claim 12-13: see first rejection above

Regarding claim 16: It would have been obvious to one of ordinary skill in the art to add any type of trim to provide a finished and completed appearance to the building structure.

Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dattner in view of Prigmore et al as applied to claim 13 and 12 and further in view of Derman (2070924). Derman is considered in the same manner as described above.

Response to Arguments

According to Webster's New World Dictionary, college addition:

The definition of "**post**" is " a piece of wood or metal, etc., usually long and square or cylindrical, set upright to support a building, sign, grate, etc: pillar or pole....."

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The definition of a **"stud"** is " column, pillar, **post** ...to prop, support...."

As is noted in applicant's arguments the claims must be given their broadest reasonable interpretation, such an interpretation must be reasonable. The interpretation by Webster is certainly reasonable though it may or may not be considered by some as the broadest interpretation. The definition given by the affidavit of Robert Delorenzo is what has been considered as "one" of the building industry's definitions. This declaration however, does not distinguish the claims over the cited art neither does it influence the examiners interpretation of the term "stud". The exhibits also do not further distinguish the claims over the prior art nor influence because they do not interfere with the broadest reasonable interpretation of the terms; applicant merely gives one possible interpretation. Again, the examiner is using the broadest reasonable interpretation of the term "stud". Further contrary to applicant's arguments Dattner does disclose a prefabricated housing comprising two or more modules, each module includes a frame, and the module frame having one or more multi-frame openings; see figures 1 and 7. The secondary reference of Derman is labeled non-analogous art; applicant further argues that the rejection is not properly supported and that the Derman reference fails to disclose the elements cited by the examiner. Claims 5-6 recite the cross members removably coupled to the studs. Derman disclose a rectangular frame with cross members 35 removably coupled to studs 19, 20. The detachable attachment to cross members is not limited to one area of the building industry. Derman concerns itself with a building module with detachably adjoined parts. The rejection using the Derman

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reference is supported by the need to detachable adjoin module members as needed when interchangeable modules is desired.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Further, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

Applicant argues that the rejection regarding the Prigmore reference is not properly supported and the Prigmore reference fails to disclose the elements cited by the examiner. Claims 7-11, 13, 16, 19 recite, inter alia, the foldable panels movable from closed to open positions. The Prigmore et al references teaches prefabricated building modules that includes foldable panels movable from the open to closed positions and vice versa. The modules include frames covered by the panels.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E. Jeanette whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-thursday, 8:30-6:00, every fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


JEANETTE CHAPMAN
PRIMARY EXAMINER
ART UNIT 3633